



ECCLESFIELD PARISH COUNCIL

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GENERAL POWER OF COMPETENCE

What is the General Power of Competence?

The General Power of Competence is a ‘power of first resort’ introduced in the Localism Act 2011. The power allows a local authority such as Ecclesfield Parish Council ‘to do anything that individuals of full age can legally do’ provided they act within the law and within the general principle of reasonableness.

This power then, can replace all the powers that Ecclesfield Parish Council may use at present to carry out the work of the Council. For instance, the Council currently maintains defibrillators using the power under the Public Health Act 1936 s234 which allows a local authority to provide lifesaving appliances. The Council also provides grants to local groups using a range of powers from the Local Government Miscellaneous Provisions Act 1976 to various sections of the Local Government Act 1972. Currently where no power exists the Council may on some certain and specified circumstances use the limited power available to it under section 137 of the 1972 Act, which is often referred to as the power of last resort (used when no other power is available).

What are the criteria to use this power?

In order to use this power a local Council must at the time of adopting the power meet the following criteria:

- employ a qualified Clerk
- have at least two thirds elected members (not co-opted).

Ecclesfield Parish Council now meets these criteria.

What difference will it make to Ecclesfield Parish Council?

Rather than considering which power to use to progress a project or support a local group the Council will need to ask, ‘Can an individual of legal age do this?’ If the answer is Yes, then so can the Council.

The Council will still need to be mindful of strict prohibitions in legislation (such as the prohibition on local Councils paying towards the upkeep of a church building), where another authority has a statutory duty and whether the proposed project would be viewed by residents as a good way of spending their public money.

Examples:

Can the Council give a grant to an individual from Chapeltown who is representing the UK in an international competition?

At the moment, the Council cannot give a grant to an individual but because an individual could lawfully do so, so can the Council by using the General Power of Competence.

Can the Council move a bus stop?

No, because an individual cannot lawfully move a bus stop.

Can the Council change a speed limit?

No, because this is a statutory function of another authority (i.e. Sheffield City Council Highways or Highways England).

The Council must also comply with procedural and financial duties and with laws such as Health and Safety, Data Protection and Employment Law.

Recommendation

Ecclesfield Parish Council adopted the General Power of Competence at its annual meeting on 14 May 2020. The resolution to use this power lasts until the annual meeting after the next election (so until May 2023).

Approved by Council 14 May 2020

Review Date May 2023